

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION

Calvin McLeod,)	C/A No.: 3:10-3247-JFA
)	
Plaintiff,)	
)	
vs.)	ORDER
)	
Progress Energy Carolinas, Inc.,)	
)	
Defendant.)	
)	

This matter comes before the Court pursuant to a motion to compel discovery filed by the plaintiffs, Calvin and Marie McLeod,¹ on June 1, 2011. (ECF No. 36). The defendant filed a response in opposition to the motion (ECF No. 42), and the Court held a hearing on June 9, 2011.

The plaintiff alleges that some of the documents withheld by the defendant in response to the plaintiff's requests for production are not actually privileged. The plaintiff requests that any documents not actually privileged be produced, a more detailed privilege log, an *in camera* review of the documents by the Court, and attorneys fees and costs with respect to this motion.

After reading the briefs, listening to oral arguments by both parties, and reviewing the documents *in camera*, the Court finds that, with three exceptions, none of the documents listed on the Third Privilege Log are discoverable. The majority of the items listed are

¹ The Court dismissed Marie McLeod from this action with prejudice on June 14, 2011, granting her request. (ECF No. 45).

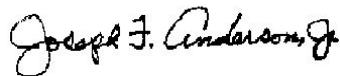
either privileged work product, attorney/client communications, or both. The privileged nature of these documents and email exchanges is plainly evident, and, as such, the plaintiff should not be privy to them. Additionally, because the defendant has already admitted liability, several of these documents are simply irrelevant to the plaintiff's case and exceed the scope of allowable discovery.

The Court does find that two undated photos of the scene of the accident and an undated weather history report are not privileged and should be produced by the defendant. With the exception of these three documents, the plaintiff's motion is denied.

The defendant is now instructed to produce for the plaintiff the documents with Bates Numbers 491, 498, and 1177-1179 by June 20, 2011. The remaining documents that were given to the Court to review *in camera* will be filed by the Court under seal.

IT IS SO ORDERED.

June 16, 2011
Columbia, South Carolina



Joseph F. Anderson, Jr.
United States District Judge